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Attorney for Creditor Helen H. Kim

Judge: Mary Jo Heston  
Chapter: 7  
Location: Vancouver, WA  
Hearing:  
Time:  
Response Date:

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA

In Re:

NO. 22-40902-MJH

ARLA MENDENHALL,

Debtor.

HELEN H. KIM,

ADV. PROC.

Plaintiff,

COMPLAINT TO DETERMINE  
DISCHARGEABILITY OF DEBT  
11 U.S.C. §523 ET SEQ.

vs.

ARLA MENDENHALL,

Defendant(s).

The Plaintiff, Helen H. Kim ("Kim"), by and through her attorney, Timothy J. Dack, complains and alleges as set forth below against debtor/defendant, Arla Mendenhall.

***Parties and Venue***

1. Ms. Kim is a single individual and is a resident of Kelso, Cowlitz County, Washington.

2. Ms. Kim is a creditor of the defendant based upon a written contract with debtor/defendant's wholly owned Washington limited liability company, Exterior Repair Co., LLC., ("Exterior Washington").

COMPLAINT TO DETERMINE DISCHARGEABILITY OF  
DEBT 11 U.S.C. §523 ET SEQ.

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1           18.     On April 30, 2019, Ms. Kim paid Exterior Washington the sum of \$39,997.00 by  
2 check that was deposited into Exterior Oregon's Bank of America account.

3           19.     On May 20, 2019, Ms. Kim paid Exterior Washington the sum of \$48,645.00 by  
4 check that was deposited into Exterior Oregon's Bank of America account.

5           20.     On June 20, 2019, Ms. Kim paid Exterior Washington the sum of \$43,240.00 by  
6 check that was deposited into Exterior Oregon's Bank of America account.

7           21.     On June 19, 2019, Ms. Kim notified Exterior Washington of failures in the  
8 workmanship and damages that she had sustained due to the failures in workmanship.

9           22.     On August 19, 2019 Ms. Kim paid Exterior Washington the sum of \$17,836.50 by  
10 check that was deposited into Exterior Washington's Bank of America account.

11           23.     On November 8, 2019, Ms. Kim paid Exterior Washington the sum of \$13,512.50 by  
12 check that was deposited into Exterior Washington's Bank of America account.

13           24.     In January of 2020, Exterior Oregon was administratively dissolved by the State of  
14 Oregon.

15           25.     On July 29, 2020, Ms. Kim paid Exterior Washington the sum of \$25,000.00 by  
16 check that was deposited into Exterior Washington's Bank of America account.

17           26.     Despite demand to complete the scope of work set forth in the original remodeling  
18 contract, on August 17, 2020, Exterior Washington filed a materialman's lien claim against Ms.  
19 Kim's property in the amount of \$25,144.00.

20           27.     Ms. Kim commenced an action in Cowlitz County Superior Court, cause number, 20-  
21 2-00715-08, against the debtor/defendant and Exterior Washington, along with additional defendants.

22           28.     In response to discovery requests, debtor/defendant stated that Exterior Washington  
23 had been dissolved, that Exterior Washington maintained no financial records, that Exterior  
24 Washington never contracted with Ms. Kim, and that Ms. Kim did not pay Exterior Washington any  
25 funds.

26           29.     Debtor/defendant answered Ms. Kim's complaint by stating that Exterior Washington  
27 had no knowledge of Ms. Kim, did not contract with Ms. Kim, and did not receive any funds from  
28 Ms. Kim.

29           30.     Despite demand, debtor/defendant has refused to account for the disbursement of the  
30 funds paid by Ms. Kim.

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3 ***First Cause of Action: 11 U.S.C. §523(a)(2)(A) and (B)***

4 31. Debtor/defendant obtained funds by false pretenses, false representations, and/or  
5 fraud from Ms. Kim by failing to complete the scope of work contracted for and by failing to  
6 account for the disbursement of funds paid by Ms. Kim and Ms. Kim's claim against  
debtor/defendant is non-dischargeable pursuant to 11 U.S.C. §523(a)(2)(A) and (B).

7 ***Second Cause of Action: 11 U.S.C. §523(a)(6)***

8 32. Debtor/defendant's acts of failing to complete the scope of work contracted for  
9 and by failing to account for the disbursement of funds paid by Ms. Kim constitute willful and  
malicious injury to another entity and are non-dischargeable pursuant to 11 U.S.C. §523(a)(6).

10 WHEREFORE the Plaintiff, Helen H. Kim, prays for a judgment against the  
11 debtor/defendant as follows:

- 12 A. For a judgment against debtor/defendant in an amount to be proven at trial;  
13 B. For pre-judgment interest at the applicable interest rate;  
14 C. For an award of reasonable attorney's fees and costs as allowed by law  
15 D. For a declaration that the above awarded judgment is non-dischargeable pursuant  
16 to 11 U.S.C. §523 (a)(2)(A) and (B);  
17 E. For a declaration that the above awarded judgment is non-dischargeable pursuant  
18 to 11 U.S.C. §523 (a)(6); and  
19 F. For such further and other relief as the Court deems just and equitable.

20 Respectfully submitted this 21<sup>st</sup> day of October, 2022.

21 /s/ Timothy J. Dack

22 Timothy J. Dack, WSBA#18870  
23 Attorney for Plaintiff Helen H. Kim  
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